

SERVICE DATE - APRIL 15, 1997

SURFACE TRANSPORTATION BOARD

DECISION

Ex Parte No. 55 (Sub-No. 95)

PETITION FOR RULEMAKING--INVOICELESS BILLING TRANSACTIONS

Decided: April 4, 1997

On February 7, 1995, the National Industrial Transportation League (NITL) filed a petition seeking the institution of a rulemaking proceeding to permit consensual invoiceless billing transactions between shippers and motor carriers. The petition noted that 49 CFR 1051.2(a)(1) required motor common carriers of property to issue a freight or expense bill for each shipment transported, and that, under 49 CFR 1220, carriers were to keep copies of freight bills for one year. In an advance notice of proposed rulemaking (ANPR) served on August 8, 1995, and published in the *Federal Register* on August 9, 1995, 60 FR 40548, the Interstate Commerce Commission (ICC) sought comments on whether it should allow consensual invoiceless billing for transactions involving not only motor carriers but also other modes subject to ICC jurisdiction, such as rail and water carriers. In response to the ANPR, the ICC received comments from 8 parties.¹

The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA) abolished the ICC and transferred certain core regulatory functions to the Surface Transportation Board and the Secretary of Transportation. In *Motor Carrier Transportation; Redesignation of Regulations from the Surface Transportation Board Pursuant to the ICC Termination Act of 1995*, published in the *Federal Register* on October 21, 1996, the responsibility for carrying out 49 CFR 1051 was transferred to the Federal Highway Administration (FHWA).² Therefore, any further decisions issued in this proceeding regarding invoiceless billing by motor carriers will be issued by the FHWA, and any inquiries respecting the status of this proceeding should therefore be directed to FHWA (Stanley M. Braverman at (202) 358-7035).

Finally, the bulk of the comments received in response to the ANPR concerned the motor carrier issue. There was little support voiced for extending the proposal to modes besides motor carriers. The AAR, for example, notes that railroads are not subject to the requirements of section 1051, and that the rail industry already uses invoiceless billing. Accordingly, we are discontinuing the proceeding as it pertains to modes other than motor carriers.

It is ordered:

1. The portion of this proceeding pertaining to modes other than motor carriers is discontinued.
2. The remainder of this proceeding is transferred to FHWA.

¹ Comments were filed by the NITL, the Association of American Railroads (AAR), the Georgia-Pacific Corporation, D&J Associates, the Household Goods Carriers' Bureau Committee, the American Trucking Associations, the Regular Common Carrier Conference, and the Owner-Operator Independent Drivers Association, Inc.

² The decision also noted that 49 CFR 1220 applied to both rail and motor carriers, and that the transfer of this regulation involving dual jurisdiction would be published in a separate action in the near future.

3. This decision is effective on the date of service.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary